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Stacy Barret, Jay Barth,
James Dzurenda, Dwight Neven,
Jason Satterly and Anthony Warrent*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

John Melnik,

Plaintiff,

vs.

James Dzurenda, et al.,

Defendants.

Case No. 3:16-cv-00670-MMD-VPC

**DEFENDANTS' MOTION FOR
ENLARGEMENT OF TIME TO FILE
REPORT OF 90-DAY STAY**

(FIRST REQUEST)

Defendants, Stacy Barret, Jay Barth, James Dzurenda, Dwight Neven, Jason Satterly and Anthony Warrent, by and through counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Erin L. Albright, Deputy Attorney General, hereby hereby move this Court for an enlargement of time for Defendants to file their ninety (90) day stay report.

This motion is made pursuant to FED. R. CIV. P. 6(b)(1)(A) and is based upon the following Memorandum of Points and Authorities and all other papers and pleadings on file herein.

MEMORANDUM OF POINTS AND AUTHORITIES

I. NATURE OF MOTION

Defendants hereby move for this enlargement of time due to the fact that an Early Mediation Conference is currently scheduled for January 23, 2018 at 2:30 p.m. (ECF No. 7 at 1).

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II. BRIEF STATEMENT OF THE CASE

This is a prison civil rights action brought by Plaintiff, John Melnik ("Inmate Melnik"), asserting a claim for relief under 42 U.S.C. § 1983, and the Fourteenth Amendment to the U.S. Constitution . (ECF No. 4 at 7). This Court screened Inmate Melnik's complaint on October 4, 2017 and placed this matter into a ninety (90) day stay. (*Id.*) The Office of the Attorney General is to file a report regarding the results of the ninety (90) day stay on January 2, 2018. *Id.* An Early Mediation Conference ("EMC") is currently scheduled for January 23, 2018 at 2:30 p.m. (ECF No. 7 at 1).

III. LEGAL AUTHORITY

Pursuant to Fed. R. Civ. P. 6(b)(1)(A), the court may, for good cause, extend the time in which an act must be done if a request is made before the original time or its extension expires. The proper procedure, when additional time for any purpose is needed, is to present the request for extension of time before the expiration of the time for the brief to be filed. Extensions of time may always be asked for, and usually are granted on a showing of good cause if timely made under subdivision (b)(1) of the Rule.

IV. DISCUSSION

Defendants submit that the facts and the argument contained herein constitute good cause to enlarge the time for the filing of the ninety (90) day stay report. The intent of the ninety (90) day stay is to permit the parties an opportunity to discuss settlement and to defer the assessment of the \$350.00 filing fee until the conclusion of those communications. (ECF No. 4 at 7). Here, the EMC is scheduled for January 23, 2018. To impose the assessment of the \$350.00 filing fee before the EMC would circumvent the intent of the stay and diminish the positions of the parties and their attempt so reach settlement. Therefore, Defendants assert that good cause exists to extend the stay in this matter until after the EMC.

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1 **V. CONCLUSION**

2 Based on the foregoing, Defendants respectfully request this Court grant their Motion for Extension
3 of Time to File Report of the 90-Day Stay.

4 DATED this 20th day of December 2017.

5 ADAM PAUL LAXALT

6 Attorney General

7 By: 

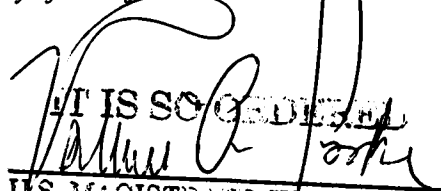
8 ERIN L. ALBRIGHT

9 Deputy Attorney General

10 Bureau of Litigation

11 Public Safety Division

12 *Attorneys for Defendant*


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14 IT IS SO ORDERED
15 U.S. MAGISTRATE JUDGE

16 DATED:  27, 2017
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CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on this 20th day of December 2017, I caused to be deposited for mailing in the U.S. Mail a copy of the foregoing, **DEFENDANTS' MOTION FOR ENLARGEMENT OF TIME TO FILE REPORT OF 90-DAY STAY (FIRST REQUEST)**, to the following:

JOHN MELNIK #30576
HIGH DESERT STATE PRISON
P O BOX 650
INDIAN SPRINGS NV 89070


An employee of the
Office of the Attorney General